IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	CASE NO. 8:04CR434
Plaintiff,	}	
vs.	}	TENTATIVE FINDINGS
EDWIN ESTRADA,) TENTATIVE FINDINGS	
Defendant.)	

The Court has received the Presentence Investigation Report ("PSR") in this case. The parties have not objected to the PSR. See Order on Sentencing Schedule, ¶ 6. The government has represented to the Court that the Defendant is safety valve eligible. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

In accordance with the government's representation and the PSR, the Court tentatively finds that the Defendant shall receive protection of the safety valve, and that ¶ 34 be amended to reflect this development.

IT IS ORDERED:

- 1. The parties are notified that my tentative findings are that ¶ 34 is amended to reflect that the Defendant shall receive the protection of the safety valve, and otherwise the PSR is correct in all respects;
- 2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the

submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

- 3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final; and
- 4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 6th day of December, 2005.

BY THE COURT:

s/ Laurie Smith Camp United States District Judge